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In re Application of
BETHUNE et al.
U.S. Application No. 10/507,180
PCT No.: PCT/EP03/50055
Int. Filing Date: 11 March 2003
Priority Date: 11 March 2002
Attorney Docket No.: TIP0028US/PCT
For: SMALL MOLECULE ENTRY
INHIBITORS

DECISION ON PETITION

This decision is in response to applicants' "Petition to Correct Inventorship (37 CFR 1.48(a))" filed 03 August 2005 which is being treated as request for correction of inventorship under 37 CFR 1.497(d).

BACKGROUND

On 11 March 2003, applicants filed international application PCT/EP03/50055 which claimed a priority date of 11 March 2002. The published international application named: Marie-Pierre T.M.M.G. De Buthune; Sandra De Meyer; Kurt Hertogs; Rong Jian Lu; Lieve Emma Jan Michiels; Abdellah Tahri; and Dong Xie as applicants/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 11 September 2004.

On 09 September 2004, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee; a copy of the international application; a preliminary amendment; and a copy of a Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase.

On 31 March 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification indicated that a declaration executed by Michael Eissenstat had not been submitted and that name of the fourth inventor was different than that on the PCT Request. The notification set a two-month time limit in which to respond.

On 03 August 2005, applicants filed a "Petition to Correct Inventorship (37 CFR 1.48(a))." The declaration submitted with the petition was executed by: Marie-Pierre

T.M.M.G. De Buthune; Sandra De Meyer; Kurt Hertogs; Rong Jian Lu; Lieve Emma Jan Michiels; Abdellah Tahri; Dong Xie; and Michael Eissenstat.

DISCUSSION

A. Sequence Listing

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 31 March 2005 indicated that the nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements set forth in 37 CFR 1. 1.821- 825. Applicants state that the instant application does not contain any nucleotide or amino acid sequences and no sequence listing is required. As such, the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 31 March 2005 is vacated in part.

B. Request under 37 CFR 1.497(d)


Applicants request to add Michael Eissenstat as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a request under 37 CFR 1.497(d) or a showing that a 92bis change was made prior to the National stage filing is required. In the instant case, a Notification of the Recording of a Change (Form PCT/IB/306) has been forwarded by the International Bureau indicating that Michael Eissenstat has been added as an applicant/inventor prior to entering into the national stage in the United States of America. Additionally, a Notification of the Recording of a Change (Form PCT/IB/306) has been forwarded by the International Bureau indicating that the correct order of the fourth inventor's name is Rong Jian Lu.

Therefore, the declaration submitted on 03 August 2005 and executed by: Marie-Pierre T.M.M.G. De Buthune; Sandra De Meyer; Kurt Hertogs; Rong Jian Lu; Lieve Emma Jan Michiels; Abdellah Tahri; Dong Xie; and Michael Eissenstat is accepted.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.497(d) is **DISMISSED** as moot.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

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